

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RYAN ROMANO,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF
MICHIGAN,

Defendant.

Case No. 2:21-cv-12966

HONORABLE STEPHEN J. MURPHY, III

ORDER DISMISSING CASE WITHOUT PREJUDICE

In December 2021, Plaintiff Ryan Romano sued his employer Blue Cross Blue Shield of Michigan in Wayne County Circuit Court for violating Title VII and similar Michigan statutes. ECF 1-1, PgID 7–17. Plaintiff moved for a preliminary injunction. *Id.* at 18–21. Defendant then removed the case under 28 U.S.C. § 1446(b). ECF 1. The Court promptly denied the preliminary injunction motion. ECF 9. Rather than answer the complaint, Defendant moved to dismiss it. ECF 10. Plaintiff responded to the motion and explained that he would ask the Court to dismiss the case without prejudice because he has sought a right to sue letter from the Equal Employment Opportunity Commission. ECF 11, PgID 309.

Federal Rule of Civil Procedure 41(a)(1)(A)(i) allows Plaintiff to dismiss a case without prejudice “before the opposing party serves either an answer or a motion for summary judgment.” A motion to dismiss does not constitute an answer or a motion for summary judgment. *Aamot v. Kassel*, 1 F.3d 441, 444 (6th Cir. 1993). Until an

answer is filed, the Court lacks discretion to deny a voluntary dismissal. *Id.* (“Rule 41(a)(1) explicitly leaves the option to dismiss in the plaintiff’s hands; once plaintiff gives his notice, the lawsuit is no more.”) Because Plaintiff has notified Defendant about the voluntary dismissal, ECF 11, the Court will allow it. The case is therefore dismissed without prejudice and the motion to dismiss, ECF 10, is denied as moot.

WHEREFORE, it is hereby **ORDERED** that the case is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the motion to dismiss [10] is **DENIED** as **MOOT**.

This is a final order that closes the case.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: January 26, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 26, 2022, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager